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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,562	03/29/2000	Donald F. Gordon	SEDN/247CIP1	6071

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EXAMINER

TRAN, HAI V

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/538,562

Applicant(s)

GORDON ET AL.

Examiner

Hai Tran

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 16-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/16/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed on 01/12/2006 have been fully considered but they are not persuasive.

Applicant argues, "Gordon fails to disclose the claimed transport stream generator including a processor and a multiplexer, wherein the transport stream generator receives demand-cast stream usage information from the session manager and generate the multiplexed transport stream."

In response, the Examiner respectfully disagree with Applicant because Gordon clearly discloses a transport stream generator (Information server 102) and inherently including a processor and a multiplexer so to generate the multiplexed transport stream 104, wherein the Information server 102 receives demand cast stream usage information from the (video) session manager 106 through communication path 103, as such the server 102 provides the requested information to the (video) session manager 106 as a packetized data stream (page 9, lines 33-page 10, lines 2).

Applicant does not discuss claims 2-15. For at least the reason set forth above, the rejection is maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2623

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being unpatentable by Gordon et al. (WO 98/31115).

Claim1, a system for providing access to array of guide pages from an interactive program guide (selection menus; see US provisional patent Application 60/034,490 filed 01/13/1997 and incorporated herein by reference; page 19, line 15 in which Application 60/034,490 clearly discloses “an array of guide pages” in its specification page 19, lines 30-page 21 and Fig. 3-4, 7-19) within constraints imposed by limited bandwidth available in a distribution network (summary of the invention; page 2-5), the system comprising:

A distribution control center coupled to the distribution network (Fig. 1);

A session manager 106 in the distribution control center for monitoring and controlling usage of demand cast stream bandwidth with the distribution network (page 14, lines 7-page 14, lines 31); and

A transport stream generator 102 including a processor and a multiplexer (inherently including a processor and a multiplexer so to generate the multiplexed transport stream 104), for receiving demand-cast stream usage information from the session manager 106 and using the information to control which demand-cast streams associated with guide pages of the array of guide pages are multiplexed into a transport stream, and for generating the multiplexed transport stream for

transmission to a plurality of terminals via the distribution network (reads on a program is selected from a program guide is communicating back to the server 102 through communication path 103 from the video session manager 106, as such the server 102 provides the requested information to the (video) session manager 106 as a packetized data stream, see page 9, lines 33-page 10, lines 8 and page 18, lines 8-page 19, lines 16).

Claim 2, wherein the pluralities of terminals 124_{1-n} are coupled to a node 110 within the distribution network, and the transport stream is transmitted from the transport stream generator to the node (Fig. 1; page 12, lines 15-30+).

Claim 3, wherein the session manager (el. 216 of video session manager 106 of Fig. 2) receives demand-cast stream acquisition, release, and request messages from the plurality of terminals (page 13, lines 21-page 14, lines 16).

Claim 4, wherein the acquisition, release, and request messages are transmitted via out-of-band communications (upstream; page 13, lines 29-35).

Claim 5, wherein the transport stream includes a list of available demand-cast streams (...what programming is available to a particular subscriber...), and the list is used by a terminal in determining whether a stream with a particular guide page may be acquired immediately (...PIN that provides "regular" viewing authorization...)

or needs to be requested (... authorizes to access so-called "late night" programming...) see page 19, lines 3-16.

Claim 6, wherein the acquisition message is sent from the terminal to the session manager if the stream is acquired (...the set-top return an acknowledgment ... page 17, lines 18-24), and a request message is sent from the terminal to the session manager if the stream needs to be requested (...requesting a program...page 21, lines 5-10 and page 23, lines 22-26).

Claim 7, wherein a release message is sent from the terminal to the session manager once the terminal is no longer acquiring the stream (page 21,lines 16-19).

Claim 8, wherein the session manager tracks demand-cast streams that are acquired by at least one terminal by maintaining a dynamic list of terminals that are presently acquiring each demand-cast stream (page 18, lines 12-27).

Claim 9, wherein the session manager 106 informs the transport stream generator 102 when a terminal request a demand-cast stream, which is not present in the transport stream (page 14, lines 17-page 15, lines 14).

Claim 10, wherein the session manager 106 informs the transport stream generator 102 when there is no longer any terminals acquiring the demand-cast stream (page 16, lines 29-35; page 21, lines 13-18).

Claim 11, wherein the distribution control center comprises a cable headend (see Fig. 1).

Claim 12, wherein the transport stream generator 102 is co-located with the session manager 106 at the distribution control center (see Fig. 1).

Claim 13, wherein the transport stream generator 102 is located separately from the session manager 106 (see Fig. 1).

Claim 14, wherein the session manager (106, Fig. 1-2 and 216, Fig. 4; page 20, lines 33-page 21, lines 19) comprises:

A monitoring module 218 for receiving acquisition, release, and request messages from a plurality of terminals;

A tracking module 220 for maintaining a dynamically list of terminals that are presently acquiring each demand-cast stream (page 14, lines 28-34; page 18, lines 1-6); and

A controlling module 222 for informing the transport stream generator 202 when a terminal requests demand-cast stream which is not present in the transport stream and for informing the transport stream generator when there is no longer any terminals acquiring the demand-cast stream (page 21, lines 16-19).

Claim 15, wherein the transport generator 102 comprises:

An interface to a session manager 106 for receiving demand-cast stream usage information 103 from the session manager 106 (page 14, lines 17-22);

A multiplexer (inherently within the server 102) for multiplexing demand-cast streams into a transport stream 104 for transmission to a plurality of terminals via a distribution network (page 4, lines 31-34+; page 9, lines 33-page 10, lines 8 and page 13, lines 18-20); and

A controller (inherently within the server 102) for controlling which demand-cast streams are multiplexed into the transport stream using the demand-cast stream usage information 103 (page 9, line 33-page 10, lines 8 and page 14, lines 14-16).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht
03/30/2006



HAI TRAN
PRIMARY EXAMINER